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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 26.2.A41/B/USA

In re Application of:

Jackie R. Gust et al.

Serial No. 09/480,044

Filed January 10, 2000

For ELECTRIC DRIVE
RIDING MOWER

RECEIVED

DEC 28 2001

GROUP 3600

Group Art Unit 3618

Examiner D. Draper

REQUEST FOR INTERFERENCE UNDER 37 CFR 1.607(a)

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Authorization to Charge Deposit Account

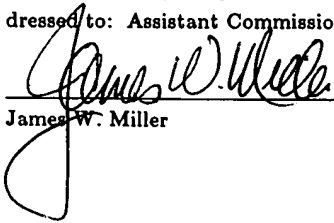
Please charge any fees of any type that may be required to Deposit Account No. 20-1315. A duplicate copy of this sheet is enclosed.

Response to PTO Communication

In response to the PTO Communication dated September 28, 2001, the Applicants respectfully request that an interference be declared and make the following showing under 37 CFR 1.607(a):

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Certificate under 37 C.F.R. 1.8. I hereby certify that this correspondence is being deposited with sufficient postage with the U.S. Postal Service, as First Class Mail, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on 10/24/01.


James W. Miller

Identification of the Patent

The Applicants seek an interference with U.S. Patent 5,794,422 to Reimers et al.

Presentation of Proposed Counts

The Applicants propose the following counts:

Count A

An electrically driven turf maintenance machine, which comprises:

- (a) a frame;
- (b) a plurality of ground engaging wheels attached to the frame for supporting the frame for movement over the ground;
- (c) at least one electric motor operatively connected to at least one of the ground engaging wheels for propelling the wheel to provide traction for the frame;
- (d) at least one operating unit carried on the frame for performing a turf maintenance operation;
- (e) at least one electric motor operatively connected to at least one operating unit for powering the operating unit;
- (f) an electric drive system carried on the frame for providing electric power to the electric motors, the electric drive system comprising:
 - (i) an internal combustion engine;
 - (ii) an electric power generating device mechanically driven by the engine for supplying electric power;

(iii) a battery power source for supplying electric power; and

(iv) means for connecting the electric motors to the electric power generating device and to the battery power source to allow electric power to be supplied to the electric motors from either or both of the electric power generating device and battery power source; and

(g) wherein the machine comprises a grass mowing machine, and wherein the operating unit comprises a grass cutting unit.

Count B

A turf maintenance machine, which comprises:

(a) a movable frame;
(b) at least one operating unit carried on the frame for performing a turf maintenance operation;
(c) a traction system for propelling the frame; and

(d) a drive system carried on the frame for powering the traction system, the drive system including:

(i) an internal combustion engine that powers the traction system at least partially at times; and

(ii) a battery power source that also powers the traction system at least partially at times.

Identification of Corresponding Claims from the Patent

No claim from U.S. Patent 5,794,422 corresponds exactly to either count A or count B.

With respect to count A, claim 24 of U.S. Patent 5,794,422 corresponds to count A except that claim 24 addi-

tionally recites a specific type of grass cutting unit, namely a reel type lawn mower, recites that a plurality of such reel type lawn mowers be present, and recites a specific placement for such lawn mowers, namely that one such lawn mower is located forward of each of the plurality of ground engaging wheels. These differences are present in the art as is evidenced by U.S. Patent 5,406,778 to Lamb et al., referred to in the Background of the Invention section of U.S. Patent 5,794,422 at Col. 1, Lines 15-42.

In addition, claim 24 of U.S. Patent 5,794,422 corresponds to count A except that claim 24 additionally recites the subject matter of parent claim 23 relating to an alternator/transformer (or rectifier) arrangement for supplying direct current to the electric motors. The use of an engine driven alternator whose output is transformed or rectified into direct current for use by an electrical motor is also present in electric vehicles generally, as is evidenced by U.S. Patent 5,406,778 to Lamb et al. which discloses the use of direct current electric motors and as evidenced by the discussion in U.S. Patent 4,196,785 to Downing at Col. 7, Lines 34-40 of how one can obtain direct current power.

Accordingly, at least claim 24 of U.S. Patent 5,794,422 corresponds to count A except for the presence of certain additional limitations described above.

With respect to count B, claim 24 of U.S. Patent 5,794,422 corresponds to count B except for the differences enumerated above with respect to count A and except for the additional difference that claim 24 of U.S. Patent 5,794,422 recites that the reel type lawn mowers are operated by electrical motors while count B recites only that at least one operating unit for performing a turf maintenance operation be carried on the frame. However, this difference is also present in the prior art as is evidenced by U.S. Patent

5,406,778 to Lamb et al., referred to in the Background of the Invention section of U.S. Patent 5,794,422 at Col. 1, Lines 15-42, which shows electrically operated reel mowers.

Identification of Corresponding Claims from the Application

Count A corresponds exactly to claim 11 of the above-identified patent application.

Count B corresponds exactly to claim 23 of the above-identified patent application.

Applying the Terms of Any Application Claim

Both claims 11 and 23 were previously in the application. Consequently, there is no requirement under 37 CFR 1.607(a)(5) to apply the terms of claims 11 and 23 to the disclosure of the application as claims 11 and 23 are not newly presented to the application.

The Requirements of 35 USC 135(b)

Both claims 11 and 23 were pending in the parent application to the above-identified patent application within one year from the issue date of U.S. Patent 5,794,422.

Remarks

A Declaration under 37 CFR 1.608(a) has been previously filed herewith. This previously filed Declaration asserts that there is a basis upon which Applicants are entitled to a judgment relative to U.S. Patent 5,794,422 to Reimers et al., for the purpose of allowing the Examiner to determine

whether an interference should be declared between this application and the Reimers et al. patent.

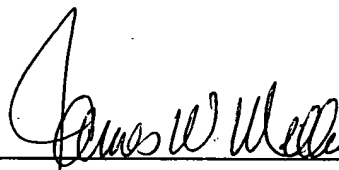
Patentability

Before an interference is to be declared, the claims subject to the interference must, of course, be allowable to the Applicants. The PTO has previously indicated that this is the case in its communication dated January 23, 2001.

The Examiner is kindly requested to review the Unique Mobility/Toro prototype mower materials again and to make the record explicit as to whether the Unique Mobility/Toro prototype mower is considered to be prior art or not. If the Unique Mobility/Toro prototype mower is prior art, then the record should further make clear why counts A and B are patentable over the Unique Mobility/Toro prototype mower.

In addition, the Examiner's attention is further specifically directed to U.S. Patent 5,406,778 to Lamb et al. which varies from the subject matter of Counts A and B by the recitation in Counts A and B of a hybrid drive system in place of the all battery electric system shown in Lamb et al.

Respectfully submitted,



October 26, 2001

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